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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,887	07/14/2005	Francis LaRoche	BDM-05-1111	9729
35811 7590 05/18/2007 IP GROUP OF DLA PIPER US LLP ONE LIBERTY PLACE 1650 MARKET ST, SUITE 4900 PHILADELPHIA, PA 19103			EXAMINER GEHMAN, BRYON P	
			ART UNIT 3728	PAPER NUMBER
			MAIL DATE 05/18/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/533,887

Applicant(s)

LAROCHE, FRANCIS

Examiner

Bryon P. Gehman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 19-36 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 5/5/05+6/20/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 19-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 19, line 3, the plate is insufficiently defined to distinguish the "bottom" of the plate other than its lower surface, which at this time it is not distinguished as by the claim.

In claims 25-27, line 1 of each, "at least one of the stops" lacks antecedent basis from parent claim 23.

In claim 28, line 1, "the foot" lacks any antecedent basis from parent claim 26.

In claim 34, line 2, "the cavity in which the disk is housed" lacks antecedent basis or it is indefinite whether applicant is now setting forth the combination of the package including a disk.

In claim 36, lines 3-4, 5 and 6, "the (complementary) disk" lacks consistency with line 2, "at least one complementary disk".

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 19-23, 29-31, 33 and 35 are rejected under 35 U.S.C. 102(e) as being anticipated by Chan et al. (2002/0154597). Claims 19-21, 23, 30-31 and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Collins (5,749,463). Claims 19-35 are rejected under 35 U.S.C. 102(b) as being anticipated by McCamy (5,533,615). Claims 19-28, 30-31 and 33-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Hofland et al. (4,771,890). Each discloses a package for a disk, the package formed by a plate (100 or 500; 22 or 422; 5; 11; respectively) with a disk centering piece (104 or 510; 23 or 24, or 423 or 424; 28; 41), wherein the plate comprises at least two radial shoulders (114 or 508; 61 and 61' or 71 and 71'; 12 or 12A or at 15; 29-31) defined to cover a marginal zone of the disk and define with an upper surface of a bottom of the plate a slot approximately equal to the thickness of the disk.

As to claim 20, the plate defines a cylindrical cavity (at 102 or 502; partially at peripheral portions; 3; 23).

As to claim 21, each discloses the cavity diameter greater than the disk.

As to claim 22, each but Collins discloses an oval shape (oval including circular).

As to claim 23, each discloses an annular band defining an engagement groove (at 112; beneath 61, 61', 71 and 71'; beneath 12A; beneath 29-31).

As to claims 24-28, McCamy and Hofland et al. each disclose at least one deformable stop (24; 44 or 45 or 50) provided with a foot (lowermost portion of each).

As to claim 29, Chan et al. (Figure 1) and McCamy (see Figures 1 and 2) disclose the cylindrical cavity forming a hollow portion (defined by the outside perimeter of the package).

As to claims 30-31, each discloses one of the shoulders covering a zone or distance in the range of 5% or less of the diameter of the disk.

As to claim 32, McCamy discloses a rocking element (at 14).

As to claim 33, each discloses the shoulders being inherently elastically deformable to some degree to receive the edge of the disk.

As to claim 34, McCamy and Hofland et al. each disclose a lug (11 or 32; 32 or 33 or 35) extending above the cavity.

As to claim 35, each but Collins discloses a central annular island (104 or 504; 28; 41).

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 20 above, and further in view of Hoogland (2003/0126839). To

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provide the structure of any one of the base references with multiple cavities would have been obvious in view of Hoogland in order to receive and secure multiple discs in the same package, as suggested by Hoogland.

7. This application contains claims directed to the following patentably distinct species: I) Figures 1-2; II) Figure 3; III) Figures 4-5; IV) Figure 6; V) Figures 7-10; VI) Figures 11 and 12; and VII) Figures 13-16. The species are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species. In addition, these species are not obvious variants of each other based on the current record.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, none of the claims appears generic.

There is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species require a different filed of search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that a reply to this requirement must include i) an identification of the species to be examined even though the requirement may be traversed (37 CFR 1.143) and ii) identification of the claims encompassing the

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elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

The election of species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point supposed errors in the election of species requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected species.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

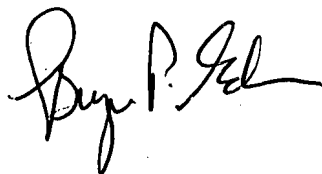
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8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571) 272-4555. The examiner can normally be reached on Tuesday through Thursday from 7:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Bryon P. Gehman
Primary Examiner
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BPG